THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.24410 of 2005

Dated 07-12-2005

Between:

Smt.Dara Lakshmamma.

.. **PETITIONER**

AND

Acharya N.G.Ranga Agricultural University and others.

.. **RESPONDENTS**

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ORDER:

The petitioner claims to be the wife of late Dara Malakondaiah, who was employed in the Acharya N.G.Ranga Agricultural University, the 1st respondent herein. Dara Malakondaiah died on 08-05-1994. The petitioner states that even while her claim for family pension and other benefits are pending with respondent Nos.1 and 2, the 3rd respondent filed O.S.No.93 of 2003 on the file of the Principal Junior Civil Judge, Bapatla against the first and second respondents claiming the benefits. The petitioner was not made a party to that suit and that it was decreed on 15-09-2004. After referring to certain developments that have taken place in the meanwhile, the petitioner claims the relief of declaration that the action of respondents one and two, in attempting to release pensionary and other benefits of her late husband, in favour of the third respondent as illegal and arbitrary and seeks a direction to the first and second respondents not to release the said benefits to the third respondent.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the first and second respondents.

In the affidavit filed in support of the writ petition, the petitioner has categorically stated that the third respondent filed O.S.No.93 of 2003 on the file of the Principal Junior Civil Judge, Bapatla, against respondents one and two and certain others, for the relief of a mandatory injunction against them, to pay the service benefits of late Dara Malakondaiah.

It is true that the petitioner is not a party to that suit. However, atleast when she came to know about the decree, the petitioner ought to have taken steps to file either an appeal with the leave of the appellate court, or a suit, to set aside the decree in O.S.No.93 of 2003. Unless any of the steps are taken and the decree in O.S.No.93 of 2003 is set aside or modified, it cannot be ignored.

Therefore, the writ petition is dismissed, leaving it open to the petitioner to pursue the remedies available against the decree. No order as to costs.

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07-12-2005

Prv